

# Congress of the United States

Washington, DC 20515

October 25, 2000

The Honorable Janet Reno  
United States Attorney General  
U.S. Department of Justice  
5111 Main Justice Building  
10th Street and Constitution Avenue, N.W.  
Washington, D.C. 20530

Dear Madame Attorney General:

We understand that the Department of Justice has filed a brief in the Ninth Circuit Court of Appeals arguing that the California Holocaust Victims Recovery Act (HVIRA) would interfere with the Federal Government's role in dealing with outstanding insurance policies held by European insurance companies doing business in the United States. We are concerned about the serious implications this action has for the interests of Holocaust survivors and their heirs under Florida's Holocaust Victims Insurance Act. We believe that congressional action will be required to ensure meaningful recovery of insurance policies for Holocaust victims and heirs if the Courts agree with the Department's position. Therefore, we are seeking your views on our legislative proposals to protect and advance Holocaust victims' insurance claims.

We are concerned about the Department's position for several reasons. First, the U.S. Holocaust Assets Commission Act of 1998, Public Law 105-186, 112 Stat. 611 (1998), calls for the Commission to "take note of the work of" the National Association of Insurance Commissioners (NAIC) with regard to Holocaust-era insurance issues, and to report on precisely the kinds of information the California legislation asked to be reported by the insurers. If the Justice Department is correct that the states cannot elicit the information we have sought through the NAIC, then the United States has effectively lost all leverage in its efforts to account for one of the largest categories of theft from Holocaust victims.

We are also concerned because, under present circumstances, various international efforts have not effectively advanced Holocaust survivors' claims to unpaid insurance policies. Recent reports from NAIC members concerning the International Commission for Holocaust Era Insurance Claims (ICHEIC) reveal a very disturbing situation. Companies that are members of ICHEIC have approved fewer than 10% of the "strongest" claims submitted by State Insurance Commissioners under the "Fast Track" process. Instead of applying "relaxed" standards of proof as called for in the founding Memorandum of Understanding (MOU) that established the commission, the companies (who, we are surprised to learn, make the initial decision themselves), are in fact, applying very stringent standards.

Under the "regular track," the ICHEIC has received approximately 47,000 claims. As of August 31, only 10,700 of these had been distributed to the companies. The companies have made a total of thirty-eight offers under the regular track program so far, and have rejected over 500 of these claims. Companies have paid out between \$2 million and \$3 million in claims so far, a minuscule fraction of the billions owed. This figure is low even in comparison to the amount of money the companies and the ICHEIC have spent on staff, travel, and the like.

The ICHEIC has also apparently failed to deliver so far on basic elements of a valid process. After 20 months and the expenditure of untold millions of dollars in administrative expenses, there is no appellate process in place and no information on how the ICHEIC auditing process is being used to insure a thorough and neutral review of the sweeping denials. Furthermore, the U.S.- German Executive Agreement establishing the German Foundation Fund has further endangered the viability of these claims by calling for the dismissal of class action insurance law suits before credible auditing and appeals processes are in effect.

If States are limited in enforcing their own legislative acts requiring insurers doing business in their states to disclose information about Holocaust era policies, and providing various avenues of relief for claimants in their courts, then tens of thousands of American Holocaust survivors and their heirs will not be able to obtain meaningful information about family policies, much less recover the funds improperly withheld by these companies for so many decades.

ICHEIC does its work in secret, so the public and even Congress are not aware of the status of its activities. We have also been very disturbed to learn that even the State insurance commissioners who serve on the ICHEIC believe they do not participate in important ICHEIC decisions. We are concerned that the Justice Department is enabling a non-transparent process controlled by insurance conglomerates with huge exposure and influence to become the *de facto* substitute for effective state regulation of insurance claims, in the tradition of the McCarran-Ferguson Act.

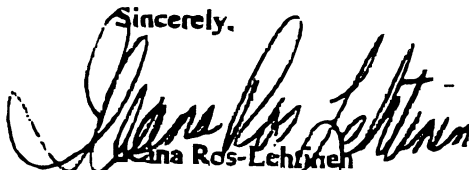
Perhaps of greatest concern is that the disclosures of policy holder information, which was to be the central mission of the ICHEIC, and which the California and other state laws are designed to facilitate, has not occurred in a significant way. After nearly two years, an unacceptably small number of insurance policy holder names have been disclosed to facilitate the filing of claims. Yet, the Department of Justice says, and we must face the possibility that the Courts may agree, that States cannot require companies with business links in their states to disclose such crucial information, which Holocaust victims and their heirs have virtually no other means to obtain.

Consequently, we are planning to move ahead with legislation to ensure that insurers are held accountable, and that survivors and heirs are compensated for policies sold to individuals who became victims of the Holocaust. Enclosed are early versions of two bills many of us sponsored or supported, the Holocaust Victims Insurance Act (H.R. 126), and the Justice for Holocaust Survivors Act (H.R. 271), for which we would like your comments in light of current developments.

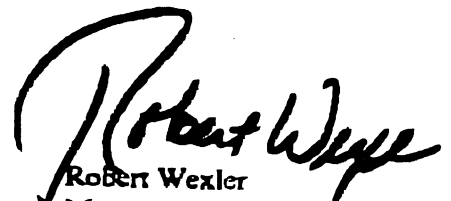
Sincerely,



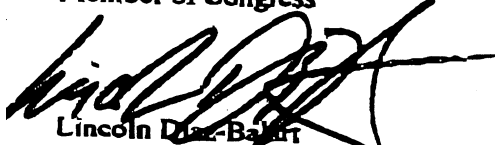
Peter Deutsch  
Member of Congress



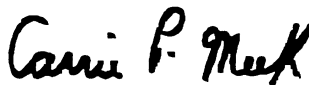
Diana Ros-Lehtinen  
Member of Congress



Robert Wexler  
Member of Congress



Lincoln Diaz-Balart  
Member of Congress



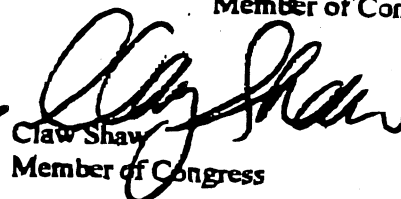
Carrie Meek  
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Alcee Hastings  
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